

BEFORE THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION NO.7927 OF 1991.

Date of Decision:-07-11-1995.

For Approval and Signature

THE HON'BLE MR. JUSTICE N. N. MATHUR

1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judges ?

Party in person.

Miss P.S. Parmar, A.G.P., for the respondents.

Coram:N.N.Mathur, J.

Date:-7-11-1995.

Oral Judgement.

This Special Civil Application has been filed by one Majid Ismail Shaikh, party in person. The matter was called in First Sessions but none appeared. The matter is again called out in Second Sessions but none has appeared.

2. I have perused the petition and heard Miss P.S. Parmar, learned A.G.P. The say of the petitioner is that he is entitled to cut the trees in view of the order dated 5-6-1976 of the Circular No.1076 dated 23-3-1976 of the Agriculture, Forest and Co-operation Department under the Saurashtra Felling Act, 1951 and as the notification dated 11-11-1971 by purchasing from farmers Khatedars, after obtaining the permission. The further say of the petitioner is that no permission is required for cutting the trees which are not prohibited in law. The further say of the petition is that the Panchayat under the Regulations dated 18-3-1988 and 13-3-1988 in respect of the reserved and non-reserved forest situate in Survey No.40 of Khatedar Bhalji Raysing is at village Bhanpur Ta.Limkheda has permitted. In spite of lawful permission given by the Panchayat, the office of the Forest Department even has not permitted the petitioner. It is the further say of the petitioner that the application in this regard was made as back as in the year 1988 and the same has yet not been disposed of. The further grievance of the petitioner is that the respondent No.2 has not given even the transit pass

3. One Mr. G.D. Bhabhor, Asstt. Conservator of Forest, Devgadbaria, Dist. Panchamahals has filed the affidavit controverting the petitioner's allegations. It is submitted that Survey No.41 of village Bhanpur Ta.Limkheda is declared as a reserve forest and therefore no permission under the provisions of the Indian Forest Act can be granted to remove the trees. It is also denied that any matter is pending undisposed of with the respondents. On the contrary, it is stated that the petitioner has concealed the fact that by the communication dated 24-7-1990 the petitioner was informed about refusal of the permission for removing the trees standing in Survey No.41 of village Bhanpur Ta.Limkheda.

4. Learned A.G.P. Miss P.S. Parmar submits that the Act has been enacted to provide for unauthorised cutting of the trees which is known as the Saurashtra Felling of Trees (Infliction of Punishment) Act 1951. Section 3 of the said Act provides that notwithstanding anything contained or in any other law for the time being in force in the State, no person either by himself or through any other person shall, without the written permission of the Collector or any other officer duly empowered in this behalf by the Government shall cut the trees. She has taken me to the provisions of the Saurashtra Felling of Trees (Infliction of Punishment) Rules, 1961 (Hereinafter referred to as the Rules, 1961.

Rule 3 of the Rules 1961 provides for the purpose of which the permission can be given. It is not the case of the petitioner that his case falls within the category provided therein and he has applied for the permission.

5. In view of the aforesaid, there is no merit in this Special Civil Application and hence the same is rejected. Notice is discharged.